IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:
THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO :12963 of 2005

DATED:12.06.2007.

Between:
G.Krishnamurthy & another

.....PETITIONERs

AND
1. State of A.P rep by its Principal Secretary,
to Government, Health & Medical, Secretariat, Hyderabad & others.

.....RESPONDENTs

WRIT PETITION NO :12965 of 2005

B.Suryanarayana & others.

…PETITIONERS.

1. State of A.P rep by its Principal Secretary,
to Government, Health & Medical, Secretariat, Hyderabad & others.

.....RESPONDENTs

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO:12963 & 12965 OF 2005

COMMON ORDER:(Per the Honourable Smt. Justice T.Meena Kumari)

These two writ petitions are filed by the petitioners seeking t call for the records pertaining to the order dated 27.4.2005 passed i O.A.No:2371 of 2002 and batch by the A.P. Administrative Tribuna and set aside the same as unjust.

The issue involved and the parties are one and the same i both the writ petitions and these two writ petitions are an outcome o the common order passed in O.A.No:2371 of 2002 and batch, date 27.4.2005. Hence, they are being disposed of by a common order.

The writ petitioners are the applicants in the respectiv O.As. They have filed the O.As. seeking to call for the impugne G.O.Rt.No:836, Health, Medical and Family Welfare Departmer dated 30.7.2001 and quash the same by holding it as arbitrary an illegal and to direct the respondents not to count the seniority of th pharmacists Grade II belonging to the Panchayat Raj Bodies from th date from which their services were regularized in that Departmer and not to disturb the seniority of the Pharmacist Grade II belongin to the Medical & Health Department. The tribunal having observe that the employees cannot be penalized for an administrativ

decision taken by the Government in the larger interest of th maintenance of health services resulting in their becoming part of th Medical and Health Department Services, disposed of the O.A. i terms of the various orders issued in G.O.Ms.No:386, 1914 an 714. Having aggrieved by the same, the present writ petitions ar preferred by the applicants.

Heard the learned counsel and perused the entire materi available on record and the order impugned.

In the O.As., the Pharmacists belonging to the Medical an Health Department having been originally appointed therein ar questioning the orders issued in G.O.Rt.No:836, Health, Medical an Family Welfare Department, dated 30.7.2001 and the consequenti proceedings in Rc.No:1660/C1/2001, dated 29.1.2002 of the Region Director of Medical & Health Services, Kadapa as illegal and arbitrar while seeking a direction not to disturb the seniority list alread prepared by the Regional Director of Kadapa on 14.7.1982 an continue the applicants in the posts in which they are now working.

The entire material available on record goes to show that ther is no dispute as to the service particulars of the applicants as well a the unofficial respondents. The unofficial respondents wer appointed in the Panchayat Raj Department and their services wer provincialised as per G.O.Ms.No:168, dated 20.3.1981 and as per th amendment issued in G.O.Ms.No:260, Panchayat Raj and Rur Development Department, dated 20.4.1987. As per G.O.Ms.No:42 dated 3.7.1986, all the local fund (Allopathic) Dispensaries wer transferred from the control of the Panchayat Raj Department to th Control of the Medical and Health Department. Subsequently, unde G.O.Ms.No:386, dated 28.7.1986, the District Development Officer of the Zilla Parishad were directed to hand over all the local fun

(Allopathic) Dispensaries to the respective District Medical an Health Officers. Therefore, the employees working therein are onl Government staff and cannot be considered as Panchayat Ra employees. The staff of the Panchayat Raj Department working i the Primary Health Centres, whose services were provincialised i G.O.Ms.No:260, dated 20.4.1987 include Pharmacists/Compounders. Subsequently, as per G.O.Ms.No:38 P.R. & R.D. Department, they were transferred and absorbed in th Medical and Health Department under the control of District Medica and Health Officers. The guidelines were also issued i G.O.Ms.No:1914, dated 13.11.1990 for fixing the seniority of some o the employees belong to the Panchayat Raj Bodies, but in the sai G.O., the category of Pharmacists was not mentioned. On that, o the O.As filed by the unofficial respondents and on th representations made to the Government by the Pharmacist originally belonging to the Panchayat Raj Departmen G.O.Ms.No:1914 was amended through G.O.Rt.No:836, date 30.7.2001. G.O.Ms.No:714 was issued by way of an amendment t G.O.Ms.No:1914, dated 13.11.1990 bringing the post of Pharmacis Gr.II under the purview of the said G.O.Ms.No:1914.

A perusal of the various orders issued by the Governmer clearly goes to show that the guidelines issued in G.O.Ms.No:191 appear to be just and reasonable as to the mode of counting o service based on the manner in which individuals were appointed i the local bodies originally and that but for the administrativ decisions, the interests of the employees cannot be prejudiced a rightly observed by the tribunal.

As a matter of fact, the absorption or the transfer of service from the control of the Panchayat Raj Department to the concerne

District Medical and Health Department, is an out come of th issuance of G.O.Ms.Nos.386, 1914 and 714, which are continuanc of the proceedings issued from time to time on the O.As. filed by th unofficial respondents as well as the representations made by th Pharmacists working under the Panchayat Raj Department.

Thus, under the spirit of the above orders, it can easily inferre that the employees of the Local bodies have been absorbed in th Medical and Health Department from 28.7.1986, on which dat G.O.Ms.No:386 came into force.

At this stage, it is also brought to the notice of this Court tha at the time of the disposal of the O.As. it is conceded by the learne G.P. that there is no dispute as to the seniority between these tw sets of employees in any of the District except Kadapa, Ananthapu Kurnool and Chittoor and the Pharmacists from both the two set assumed that their seniority has to be determined by taking int consideration of the two sets of employees together.

In the peculiar facts and circumstances of the case and in vie of the undisputed fact as to the particulars of the seniority amon both the sets of employees coupled with G.O.Ms.No:386 and th subsequent G.Os.1914 and 714 as to the mode of reckoning c seniority, We have no hesitation to hold that the tribunal is justified i passing the order impugned. Hence, We see no merits in thes writ petitions and the same are liable to be dismissed.

Accordingly, both the writ petitions are dismissed. No costs.

(JUSTICE T.MEENAKUMARI)

Date:12th June, 2007

(JUSTICE G.CHANDRAIAH)

gurc/nn

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NOs:12963 & 12965 of 2007
(Common Order delivered by the Honourable Smt.Justice T.Meena Kumari)

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12th June, 2007.